

REMARKS/ARGUMENTS

Summary of the Final Office Action and the Advisory Action

Claims 30, 31, 32 and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Thrasher et al. (U.S. Patent No. 6,241,361) (hereinafter "Thrasher").

Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ruthenberg (U.S. Patent No. 6,184,628) (hereinafter "Ruthenberg").

Claims 30, 31, 39 and 50 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Poppenheimer (U.S. Patent No. 5,556,188) (hereinafter "Poppenheimer").

Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rowley et al. (U.S. Patent No. 3,962,675) (hereinafter "Rowley").

Claim 51 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Poppenheimer as applied to claims 30, 39 and 50 and further in view of Thrasher.

Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rowley as applied to claims 30 and 32 and further in view of Poggi (U.S. Patent No. 5,800,041) (hereinafter "Poggi").

Claims 34-38, 40-48 and 52-62, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

In the Advisory Action dated January 17, 2007, the Examiner did not enter the Amendment under 37 C.F.R. § 1.116 as filed on December 22, 2006 in this application.

Summary of the Response to the Final Office Action and the Advisory Action

Applicant has amended independent claim 30 to differently describe embodiments of the disclosure of the instant application. The amendments previously filed on December 22, 2006, but not entered, are once again implemented into independent claim 30 in the instant paper. In addition, Applicants have implemented new amendments into independent claim 30 in the instant paper. Accordingly, claims 30-62 remain currently pending for consideration.

Rejections under 35 U.S.C. §§ 102(b) and 103(a) and Statement of the Substance of Examiner Interview

Claims 30, 31, 32 and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Thrasher. Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ruthenberg. Claims 30, 31, 39 and 50 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Poppenheimer. Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rowley. Claim 51 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Poppenheimer as applied to claims 30, 39 and 50 and further in view of Thrasher. Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rowley as applied to claims 30 and 32 and further in view of Poggi. Applicant has amended independent claim 30 in order to differently describe embodiments of the disclosure of the instant application in accordance with a discussion with Examiner Leah S. Lovell, as described below. To the extent that these rejections might be deemed to still apply to the claims as newly-amended, the rejections are respectfully traversed for at least the following reasons.

Examiner Leah S. Lovell is thanked for the courtesies extended to Applicant's representative during a telephone interview on December 13, 2006 with regard to the instant application.

During the interview, Applicant's representative explained how an important feature of the underwater pool light of the instant application is the guard member described in independent claim 30. In particular, an example was provided of the resultant advantages of the guard member when it is utilized in combination with remaining components of the underwater pool light, such as the lens and the plurality of fasteners that connect the lens to the housing of the underwater pool light. This arrangement is specifically described in independent claim 30 of the instant application. The guard member is illustrated, for example, as trim guard 60 in Fig. 3 of the instant application.

Applicant's representative explained to the Examiner that the prior art arrangement, as described in each of the references applied in the Office Actions to date in this application, provides fasteners connecting the lens to the pool light housing in a manner so that the fasteners are easily accessible when the pool light components are assembled together. This prior art arrangement allows for easy maintenance of a pool light in the event that the pool light assembly needs to be opened to replace an interior bulb, for example.

Applicant's representative went on to explain how embodiments of the instant invention, as described in independent claim 30, differ from such a prior art arrangement. For example, the instant application's disclosed embodiments provide the guard member (for example, trim guard 60 in Fig. 3) in a specific arrangement in relation to other components of the claimed pool light in order to prevent unfastening of at least one of the plurality of fasteners. In this regard, the guard member is configured so as to cover the fasteners so that the fasteners are not easily

accessible. In other words, the guard member is situated so as to cover the lens fasteners so that the guard member prevents access to the fasteners when the pool light components are assembled together.

During the telephone interview, Applicant's representative pointed out a portion of the Examiner's "Response to Arguments" included at page 8, lines 6-9 of section 10 of the Final Office Action. The Examiner had noted, at that portion of the Final Office Action, that the claims, in their form at that time, did not recite the features that "the fasteners cannot be easily accessible." The Examiner also noted at this portion of the Final Office Action that the references of record, on the other hand, provide fasteners that "are easily accessible."

Examiner Lovell confirmed her understanding of this important distinction between the instant application's disclosure and the references of record during the telephone interview. The Examiner also re-affirmed her position during the telephone interview, as previously indicated in the above-quoted portions of the Final Office Action, that claim 30 should be further amended in order to specifically describe the feature of the fasteners not being easily accessible.

Accordingly, Applicant's representative reached agreement with Examiner Lovell during the telephone interview to amend independent claim 30 to read "a guard member adapted to prevent unfastening of at least one of the plurality of fasteners by covering the fasteners so that the fasteners are not easily accessible such that the light source is enclosed within a permanently sealed body."

Examiner Lovell indicated that this amendment to claim 30 would likely overcome all of the currently applied art of record, consistent with her indication in the above-discussed portion of the Examiner's "Response to Arguments" included at page 8, lines 6-9 of section 10 of the Final Office Action that the references of record all disclose arrangements in which the fasteners

“are easily accessible.” The Examiner also went on to note that she would need to perform an additional search in this regard before any indication of allowance could be made.

Accordingly, Applicant opted to proceed with the filing of an Amendment under 37 C.F.R. § 1.116 document on December 22, 2006 including the amendment to independent claim 30 that was agreed upon between the Examiner and Applicant’s representative during the telephone interview. Applicant respectfully submitted in that filing that the remarks previously filed in this application on June 21, 2006 still applied in this application.

In an Advisory Action dated January 17, 2007, the Examiner refused entry of the Amendment under 37 C.F.R. § 1.116, as filed on December 22, 2006 in this application. The Examiner noted on the Continuation Sheet (PTO-303) attached to the Advisory Action that the December 22, 2006 amendment to claim 30 “would require a new search before determining its allowability.” Accordingly, because the Amendment filed on December 22, 2006 has not yet been entered in this application, those same amendments to independent claim 30 are implemented in the instant Preliminary Amendment paper, together with additional amendments that are implemented into independent claim 30, as will now be discussed in detail.

On the Continuation Sheet (PTO-303) attached to the Advisory Action dated January 17, 2007 in this application, the Examiner went on to note that “Applicant is encouraged to look at” U.S. Patent No. 3,962,675 to Rowley. The Examiner noted that the guard member of Rowley “does indeed cover the fasteners of the lens such that they are not easily accessible—one would have to have a screw driver to remove the guard member to access the fasteners of the lens.” The Examiner did not specifically indicate which portion of Rowley is the asserted “guard member.” Nevertheless, in light of the Examiner’s comments in this regard, Applicant has opted

to implement additional amendments to independent claim 30 to even further distinguish independent claim 30 from the applied art of record.

Applicant respectfully submits that Rowley relates to an underwater floodlight in which the cover is “readily detachable to enable the light bulb to be quickly and easily changed.” See col. 1, lines 29-32 of Rowley. A retaining screw 46, which secures the face ring 42 to the shell 16 (col. 2, lines 28-45 of Rowley) is easily accessible. This is illustrated in Fig. 3. Col. 3, lines 33-40 of Rowley describe how the inner housing 30 can be easily detached from the shell 16 by simply releasing the screw 46 to permit replacement of the bulb in the inner housing.

As a result of the teachings in at least these portions of Rowley, it is clear that Rowley relates to an arrangement that facilitates maintenance of the floodlight by making it easy to disassemble the floodlight in order to replace a bulb installed inside the floodlight assembly that may have burned out, for example. Applicant has explained that the arrangement described in independent claim 30 of the instant application is particularly different from such conventional arrangements because claim 30 describes a combination of features that prevent such bulb replacement, or other types of such maintenance, from being attempted. See, for example, paragraph [0034] of the specification of the instant application whose final sentence reads that the “trim guard prevents removal of the lens for replacement of the bulb or other maintenance of the pool light.” The arrangement illustrated in Fig. 3 of the instant application, for example, in which the trim guard (for example, guard member) 60 covers the fasteners so that the fasteners are not easily accessible clearly results in this distinguishing arrangement over conventional arrangements such as that disclosed in Rowley. Rowley’s above-discussed specific directives of the need to facilitate such maintenance of the floodlight would teach away from the “non-maintainable” concepts of the instant application.

In order to even more particularly describe these particular distinctions in the combination of features of independent claim 30 of the instant application, Applicant has opted to even further amend independent claim 30 to describe a “non-maintainable underwater pool light.” Applicant refers to the above-discussed final sentence of paragraph [0034] of the instant application’s specification, for example, in this regard. Also, Applicant has further amended claim 30 to describe that the housing is “locatable within a niche” and also to describe that the guard member covers “the fasteners so that the fasteners are not easily accessible when the pool light is removed from the niche and when the pool light is located within the niche.”

It is clear that in an arrangement such as that described in Rowley, if the underwater floodlight is removed from the niche (pool walls 10 and 12 in Rowley), then any fastener which connects the lens to the floodlight housing in Rowley would be exposed and would thus not be covered by a guard member as in embodiments of the disclosure of the instant application and as specifically described in independent claim 30. In other words, in the arrangement disclosed in Rowley, if the floodlight is removed from the niche, then no such fasteners could be said to be covered by a “guard member” and thus all such fasteners would be easily accessible. This follows from the fact that conventional floodlight arrangements, such as that disclosed in Rowley, are designed so that they can be easily “maintained” by changing an interior light bulb that has burned out, for example. The arrangement described in the “guard member” portion of newly-amended independent claim 30, on the other hand, clearly results in a underwater pool light that is “non-maintainable” in this regard because this novel guard member arrangement of independent claim 30 covers the fasteners to result in the light source being “enclosed within a permanently sealed body,” as specifically described in the claim.

Applicant respectfully submits that, for at least the foregoing reasons, newly-amended independent claim 30 of the instant application is not anticipated by any of the applied references to Thrasher, Ruthenberg, Poppenheimer, or Rowley. Accordingly, Applicant respectfully asserts that the rejections under 35 U.S.C. § 102(b) should be withdrawn because none of Thrasher, Ruthenberg, Poppenheimer and Rowley, teach, or even suggest, the combination of features described in independent claim 30 of the instant application.

In addition, the rejections under 35 U.S.C. § 103(a) should also be withdrawn. MPEP § 2143.03 notes that “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).” As explained above, the prior art teaches away from the invention, and does not contain any suggestion of all of the claim limitations.

Applicant thanks the Examiner for the indication that claims 34-38, 40-48 and 52-62, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form. However, Applicant respectfully asserts that these dependent claims, like the remaining dependent claims, are allowable at least because of their dependence from independent claim 30, and the reasons set forth above. Accordingly, withdrawal of the objection to those claims is respectfully requested. Moreover, it is respectfully submitted that the additionally applied reference to Poggi, with respect to claims 33 and 34, does not cure the deficiencies discussed above with regard to Rowley.

Attached Exhibits A-G

In order to assist the Examiner in understanding the above-discussed “non-maintainable” features associated with embodiments of the instant application, Applicant attaches hereto Exhibits A-G which illustrate an example of the non-maintainable underwater pool light of the instant application.

- Ex. A: Shows one-way screws (which can not be unfastened) clamping the lens to the pool light housing. This assists (along with the trim guard) in preventing the lens from being detached from the housing.
- Ex. B: Shows the trim guard (upside down) with tapered securing pegs.
- Ex. C and E: Show a section of the trim guard cut away to show the securing pegs of the trim guard going through the lens and into housing below.
- Ex. D: Shows the trim guard in position and preventing access to the one way screws (any attempt to remove the trim guard will result in the tapered pegs snapping).
- Ex. F and G: Show that there is no access to any screws from the rear of the housing.

Accordingly, Applicant respectfully submits that as illustrated by the attached Exhibits A-G, with no access to the screws, either from the front or rear, this pool light is a sealed unit and is therefore non-maintainable (unserviceable) even when removed from the niche.

CONCLUSION

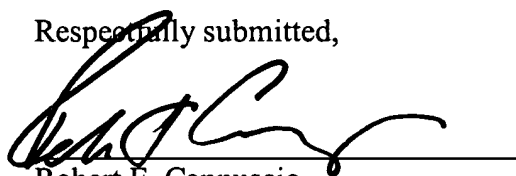
In view of the foregoing amendments and remarks, withdrawal of all objections and rejections and allowance of all pending claims are earnestly solicited. Applicant has made particular effort to work closely with the Examiner, via the above-discussed Examiner Interview and subsequent filings consistent with the discussions in that Interview, in order to advance the prosecution in this application. Accordingly, should the Examiner feel that there are any issues

outstanding after consideration of this response, the Examiner is invited to contact Applicant's representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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